

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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WAYNE A. PORRETTI,

Plaintiff,

v.

DIRECTOR OF NDOC, *et al.*,

Defendants.

Case No. 2:20-cv-00249-APG-BNW

ORDER

I. DISCUSSION

Plaintiff has filed a motion seeking appointment of counsel in this action. (ECF No. 15).

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.’” *Id.* “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*

1 In the instant case, the Court does not find exceptional circumstances that warrant
2 the appointment of counsel at this time. The issues in this case are not complex. In
3 addition, although Plaintiff indicates that he has some psychological issues, it appears
4 from the filings in this case that he has not had difficulty communicating and stating claims
5 compared to the typical pro se plaintiff. Furthermore, as with many civil rights actions, I
6 have permitted some of the claims in Plaintiff's complaint to proceed, but that decision
7 was based only on allegations, not evidence. It therefore would be premature to assess
8 Plaintiff's likelihood of success in this action. Accordingly, I deny the motion for
9 appointment of counsel without prejudice.

10 **II. CONCLUSION**

11 For the foregoing reasons, IT IS ORDERED that the motion for appointment of
12 counsel (ECF No. 15) is denied without prejudice.

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14 DATED: February 9, 2021

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17 UNITED STATES DISTRICT JUDGE
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